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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,320	07/16/2000	John Peter Gahan	1223-001	1490
1009	7590	10/22/2003	EXAMINER	
KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507			TRIEU, THAI BA	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 10/22/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/600,320

Applicant(s)

GAHAN, JOHN PETER

Examiner

Thai-Ba Trieu

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 18-30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____.                                   |

### **DETAILED ACTION**

This Office Action is in response to the Amendment filed on September 17, 2003. Claims 1-15 were cancelled, and claims 16-30 were added. The arguments contained were persuasive; accordingly, a new Non-Final has been set forth below.

Applicant's cooperation in correcting the informalities in the drawing, specification and claims are appreciated.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claims 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gahan (Patent Number WO 93/11343).***

**Regarding claim 16,** Gahan discloses a two-stroke motor of the rotary piston type including:

a cylinder block (114) containing a plurality of cylinders, rotatably mounted within an engine housing (111) and indirectly geared to a crankshaft (113), journaled for a rotation within said engine housing (111) and piston members (115) supported upon said crankshaft (113) for a rotary motion within said cylinder block (114) as said

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crankshaft and said cylinder block rotate in the same direction (See Page 2, lines 2-11, Page 7, lines 18-25, Page 10, lines 10-19); and

said cylinder block (114) being sealed against said engine housing by slidably mounted circular side seal rings having provision for at least one of an automatically rotatable induction timing ring and automatically rotatable transfer timing ring, and with said engine housing having peripheral pivoted air vents for automatically variable air flow (See Figures 12-13, Page 14, lines 21-27, Page 15, lines 1-26, Page 19, lines 14-19, and Page 20, lines 1-23).

**Regarding claim 17**, Gahan discloses the motor of claim 1 wherein said under block is indirectly geared to said crankshaft by epicyclic gears (117) of a ratio 2:1 (See Page 2, lines 17-22, Page 7, lines 26-27, Page 8, lines 6-8, and Page 12, lines 14-18).

#### ***Allowable Subject Matter***

Claims **18-30** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

With regard to applicant's argument on page 11, paragraph 3, applicant argues that *Gahan reference (Patent Number WO 93/11343) does not teach "the gears being not indirectly connected by the idler gears as in the present claims"*. Applicant made

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the examiner confuse since the applicant's argument is contradict to applicant's explanation of "indirectly" and "directly" in the paragraph 2 of page 11.

If the applicant wants to express that Gahan reference does not teach ***"the gears being indirectly connected by the idler gears"***, the examiner respectfully disagrees with applicant; since on page 10, lines 10-19 of the reference, Gahan clearly state the claimed invention.

Applicant's arguments with respect to claims 16-30 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai-Ba Trieu whose telephone number is (703) 308-6450. The examiner can normally be reached on Monday - Friday (7:30-5:00), every Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on (703) 308-2623. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9302 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

TTB  
October 22, 2003



Thai-Ba Trieu  
Patent Examiner  
Art Unit 3748